

LAKE COUNTY PLANNING BOARD
August 14, 2013
Lake County Courthouse, Large Conference Room (Rm 317)
Meeting Minutes

MEMBERS PRESENT: Bob Kormann, Sigurd Jensen, John Fleming, Janet Camel, Steve Rosso, Rick Cothorn, Roland Godan, Brian Anderson

STAFF PRESENT: Joel Nelson, Robert Costa, Diana Cornelius, Lita Fonda

Bob Kormann called the meeting to order at 7:00pm.

Motion by Rick Cothorn, and seconded by John Fleming, to approve the July 10, 2013 meeting minutes. Motion carried, 7 in favor (Bob Kormann, Sigurd Jensen, John Fleming, Janet Camel, Steve Rosso, Rick Cothorn, Roland Godan) and 1 abstention (Brian Anderson).

PHILIPS ESTATES, THE AMENDED PLAT OF TRACT B, A SECOND OR SUBSEQUENT MINOR SUBDIVISION

Robert Costa presented the staff report. (See attachments to minutes in the August 2013 meeting file for staff report.) In the last line of VII.A on pg. 2, Robert corrected '1 unit encumbered...' to '1 lot encumbered...' He highlighted that a condition discussing the exact requirement statement of the subdivision regulations [regarding irrigation] had not been included. The italicized section on pg. 14 in M.2 in the second bullet was intended as part of the conditions. When this went to the Board of Lake County Commissioner, that would be included as part of the proposal unless the Planning Board decided to remove it. It was required by the regulations, and needed to be added to the conditions of approval. Additionally, the floodplain crossed the property, pertaining to the Jocko River. It was shown on the preliminary plat. Staff recommended a condition not specifically shown in the staff report that would require the delineated floodplain of the Jocko River to be included in the final plat. The Board might want to go over that again later. On pg. 18, regarding amending the [existing] covenants with regard to lot size, the request for amending the covenants arrived after the staff report was distributed. It would be reviewed in time for this to go through, and was going through the appropriate channels.

John checked that a conservation easement was giving up one instance of ownership [where] they place a residence. Robert answered any development, period. Steve asked how tract A was developed. Robert replied tract A outside of this proposed subdivision but within Philips Estates had a single-family residence on it. Steve checked this was the only residence other than this one on Canal Road, and Robert said no, on Jocko Canyon Canal Road. Steve asked if there were two roads. Robert replied there were multiple roads. Steve clarified he was looking at the little internal road that crossed tract B1. Robert replied that one only provided access to B1 and A.

Bob K asked if tract B2 was going to be fenced. Robert hadn't seen a proposal to do so. Steve returned to the little canal road. He checked that this was the road on which the variance was requested. Robert said that Jocko Canyon Canal Road was the irrigation project road that ran

across the northern boundary. The variance request was specifically for the private internal road. Steve confirmed with Robert that this was the small road just north of the house. Steve noted there was a condition about providing access to the canal. That was the access road for maintenance? Robert responded that Jocko Canyon Canal Road did, but not the private internal road. Steve and Robert clarified what roads were there, and to which reference was made. There were actually 3 roads. Steve continued that the easement for the road that accessed tract A was only 20 feet wide. If the Board required that road to be up to standards, they would have to widen the easement.

Janet asked where the proposed irrigation language to be added was located. Bob K referred to pg. 14. Janet confirmed with Robert that this would be the exact language added. Robert said this would be required on the final plat. It was a regulatory requirement by the subdivision regulations. It was his mistake that it hadn't been included in what the Board received as a proposal. Janet asked if the Board needed to vote on including this in the perpetual conditions. Robert said he was saying now it needed to be included, so that was a correction he was making. Janet asked if the floodplain language was something that the Planning Board needed to address. Robert replied that he looked at that one in a similar way—it should have been included, and it was a correction that Robert was telling them he was making. It would be in there unless the Board made some motion to remove it. Joel asked if he had proposed language. Robert said he had the irrigation language, but not the floodplain.

Regarding the WUI (Wildfire Urban Interface) guidelines discussion, Janet asked if the 30 feet of defensible space would be required. Robert answered that if the Board was to recommend a variance and the Commissioners were to approve it, the contents in the WUI standards, section X.10.S of the subdivision regulations would not be applied to this subdivision. Janet suggested that they make an exception to have a minimum of 30 feet of defensible space kept around a house in a forested area, especially in this canyon, which had an extreme potential for wildland fires. She thought the homeowner would want to do it anyway; she recommended not waiving that portion of it. It was a minimal requirement of 30 feet of defensible space. That meant it needed to be irrigated, cleared of flammable vegetation and the woodpile shouldn't be within 30 feet of the house. There were standards. She didn't have the WUI guidelines in front of her.

Janet noted that the drainfield overlapped into the wetland buffer. Could the Board recommend that a replacement drainfield not overlap if he had to replace it in the future? Joel clarified it was in the building setback, not in the buffer. Robert said during the subdivision review, he specifically asked for the agent to show a replacement drainfield. Somehow it didn't get included in this version. If it were placed in the structural setback, that would be fine. Janet said she had problems with a drainfield in the wetland buffer area. She thought of it as a buffer to protect the wetlands quality. She suggested a condition that replacement drainfields be placed outside of the setback, just for the protection of the water quality. Robert explained that his requirements came from the regulations. As it was shown, [the drainfield] was actually outside of the 100-foot vegetative buffer but it was just within the structural setback as required by these regulations. Janet asked if he could help clarify some language. Could they ask that the replacement drainfield be outside the wetland buffer? Robert asked if she meant the vegetative buffer. Joel and Roland pointed out the vegetative buffer on the map. Janet said the replacement drainfield could potentially end up overlapping into the buffer. She wanted to make sure that it

didn't. Roland thought the planners were saying the regulations wouldn't allow that. Janet asked if that would be included. Robert suggested that she might want to propose it, if that was the way the rest of the Board would want to go. Janet said she proposed this, then. Roland observed there was plenty of room for it.

Bob requested that Robert mention the Gregory Schultz letter and what impact that might have. Robert said Gregory S was not necessarily opposed to the subdivision; however, he wanted to see more commitment that the tract would not be developed. Robert spoke with him earlier this month. They disagreed on this issue. Gregory S would like to see more restrictive requirements on this subdivision. Robert believed that the way it was reviewed and [inaudible] pretty well covered what was being proposed. If someone wanted to develop this parcel, they would not only have to have an amendment to the subdivision, it would also require a variance from the Density Map and Regulations. He thought that would be a significant uphill battle. Bob thought it sounded like Gregory S was concerned people wouldn't follow through on this. Robert said if someone were to develop that parcel, they would need to get a building notification permit. They would have to get a variance from the Density Map and Regulations. They would have to get an amendment to the subdivision, and basically start review over again. They'd have to address the WUI standards and the other things. Joel added unless it was Tribal ownership, in which case they wouldn't have to deal with County requirements.

Janet commented that the Tribes were purchasing this for wildlife/fisheries habitat. BPA would not allow any development, as a federal agency. A hearing would have to be held in federal court. The Tribes weren't going to develop it.

Steve pointed to the 'recommendation for approval' statement at bottom of pg. 28 after the list of conditions. It said 'and one lot to be encumbered with a conservation easement, as proposed'. It wasn't one of the conditions, but it was on the page with the list of conditions. Should it be a condition? That would solve the attorney's question. Robert replied that it was up to the Board, if that would help them feel more secure in that. His opinion was this statement was integral to the entirety of the approval as it was. As it was, that portion itself would need to be amended if someone were to try to develop it. It wasn't included in the numbering system, but it was an integral part of the legal process of the subdivision. Steve thought the attorney, Gregory Schultz, didn't feel that was the case. Robert wasn't sure why he felt that way or if a number would solve his issues. Joel said he may not be aware that it would be incorporated into the approval statement issued by the County.

Steve noted there were several conditions in the subdivision regulations that they'd talked about not enforcing because there was no new development that was created. They were creating one more lot, but it was restricted from development. Condition #9 talked about school buses and possibly requiring a school bus stop. Why was that condition left in? Robert said there wasn't an exemption out of this. It was like the WUI standards. The regulations didn't provide wiggle room on that so staff proposed that. Steve mentioned the donation to the fire department. They decided they didn't need that. Robert asked if the fire donation was a regulatory requirement. Joel answered no. Steve finished that the school bus was.

Marc Carstens spoke on behalf of the applicants. This was an unusual subdivision. They were going through the process to develop a lot that was not intended to be developed. He was a little disappointed that Gregory Schultz didn't contact Robert either yesterday or today. He and Marc had some conversations, along with personnel from Fisheries on Monday. At the end of the conversation, he told Marc that he was comfortable, and that he'd need to talk to another party he was neighboring.

Marc described that they had trouble accepting a condition that point blank said this subdivision could only happen if the conservation easement went on. The conservation easement in itself was a taking of the developmental right off of the property, and the party was compensated for that. In this case, the plan was the property would be sold to the Tribes, who had funding arranged through a funding source that mandated these conservation easements be placed on the property. If the property didn't have a possibility of being developed, they weren't buying anything. There was nothing to buy. It was just a piece of ground that couldn't be developed. He requested a condition not be made that said this division could only happen if it accepted a conservation easement. By doing that, they made it impossible for the conservation easement to be accepted, because there was no taking. The conservation easement had to take a developable right. They were creating a lot that didn't have a unit. The unit was Lake County's language for a residence, a usage. It didn't happen at the end of this activity but that wasn't to say that it didn't have a potential developable right at that point, which the conservation easement would then negate. It was a little bit long-handed in order to get there, but that's where they were trying to go.

They spoke with the Commissioners attempting to streamline a subdivision that would be aimed at creating a tract where the conservation easement would be going on. The County hadn't done anything towards it yet and he didn't know that the County could. As soon as it looked like you had an easy way through a system, the system got clogged with people trying to find the easy way. This was probably where they needed to be. The Board would be weighing a subdivision based on one unit. Subdivision review in and of itself was a review of the impacts on infrastructure, wildlife, wildlife habitat and a half dozen other things. In order for that impact to be felt, you would need a second unit. They weren't here before the Board asking for a second unit. They were asking for a piece of ground. In talking with Gregory S and personnel from the Fisheries Dept, this process had been going on where they'd been acquiring lands for a number of years. He asked the Fisheries personnel if they'd ever gotten a land purchase to this point and not been able to conclude it. [The Fisheries representative] answered that had never happened. He asked if they'd ever gotten a division created or a boundary line adjustment done, where the Tribes bought the property with money from the funding source, and the conservation easement hadn't been filed. Again she answered no. In order to get the money, the conservation easement had to go on. That was outside of the impacts of the subdivision, but it was intrinsic to this subdivision, some that were done in the past and some that they'd probably do in the future.

Marc said that as far as a couple of little items like irrigation and access, they could spend a lot of time on that. He thought it was redundant. He didn't know if they really had a right to put an easement on top of an easement that was already gained through federal code, but that was beside the point. Redundancy was fine and they would accept that. As far as the drainfield site, they would like that to be a matter of replacement. When the system failed, he would go to Lake

County who would have copies of this plat. Lake County Sanitation could place it. The current drainfield was within the 150-foot building setback, not the wetland buffer. It was also about 75 feet above the stream, up on the hillside. On the wildfire protection, he could sense that Paul Philips was getting a little nervous when the 30-foot setback came up. Paul had trees close to his house, which were trimmed up to 15 feet, and he irrigated regularly. There were no flammable materials but there was a nice collection of classic cars.

Steve asked if Marc had objections to the conditions as they were stated here including the last two paragraphs. Marc said he had some misgivings over the last sentence that Steve read. He didn't want them to get into the position where they'd been able to obtain the subdivision and then some reviewing party for the funding source said wait, you can't build on this anyway. He had misgivings. It didn't come up [inaudible phrase] in the conditions that the only way this property could be divided was if the conservation easement was placed, in the conservation easement world that was a bullet in the head. Steve compared it to the chicken and the egg, and Marc agreed. What they'd given them to review was a copy of the proposed easement that was being developed between Fisheries and the funding source. This was what they were proceeding with. Once they got to this point, as long as the division could be provided, it would happen. The buy-sell had been signed contingent with this. He thought they'd even begun the legal noticing for the conservation easement. It was a little preparatory. Again, they were looking at a subdivision that didn't create impacts because it didn't have a second unit.

Roland said to assume for a moment that the conservation easement wasn't an issue here, and this was strictly a subdivision. This tract could be buildable. Marc commented that would take a lot of work, but it could be. Roland pointed out the Board would be accepting variances with less scrutiny involved because of the fact that it would not be built. If the conservation easement didn't go through and they didn't implement these restraints, this could be built upon and could be substandard in that the conditions that were proposed would not prevent that. Marc said this subdivision netted two parcels of ground with one unit. The unit was existing. Roland said there could be a unit over there. It did have a value. Marc said it had to have a value in order to get a conservation easement. Roland checked his understanding that it was said there was no value to this property because it couldn't have a unit on it. Marc clarified that it wasn't valueless because it didn't have a unit. He apologized for the misunderstanding, and asked for a restatement of Roland's question. Roland thought they were looking at granting this subdivision with a little less scrutiny because it was almost more like a boundary line adjustment than an actual lot creation. Once it began a conservation easement, he saw it as getting blended in to the rest of the Tribal land even though it had existing boundaries.

Bob K didn't want to get hung up on something where he wasn't sure what Marc was saying. He asked if this was almost a done deal. Marc said they didn't have it approved. Bob confirmed with Marc that the consideration on the conservation easement was being worked on. Bob asked Marc if there was wording in [the proposed approval] that might be a problem for that to be accomplished. Marc thought not. He thought if they were to accept a condition that said the only way this division could happen was if the conservation easement was placed on it, this would cause a lot of problem. With a conservation easement, there had to be a value taken away. Bob said they didn't have that condition in there. Marc thought he'd heard the Board considering it earlier.

Janet clarified that defensible space didn't mean that you had to clear cut the space. You could have native vegetation, as long as it was the type that wasn't flammable. It was just using common sense. You could have the 30 feet outside of the vegetation around the home. You didn't have to have it devoid of vegetation. Marc thought they were on board with that, and could accept that condition.

Public comment opened: None offered. *Public comment closed.*

Bob reminded the Board to keep in mind that they needed to vote on the 3 variances on pg. 25. They would vote on those individually.

Motion made by Janet Camel, and seconded by Roland Godan, to recommend approval of the variance request concerning the private drive as stated on pg. 25, #1. Motion carried, all in favor.

Motion made by Steve Rosso, and seconded by John Fleming, to recommend approval of the variance request concerning the road, as stated in #2 on pg. 25. Motion carried, all in favor.

Motion made by Janet Camel and seconded by John Fleming, to recommend approval of variance #3 on pg. 25 with the exception/addition that a minimal 30-foot defensible space be maintained around the home and structures on tract B1. Motion carried, all in favor.

Janet checked that the issue of location of a replacement drainfield would be addressed when it went before the Sanitation for a replacement drainfield permit. Roland checked that there was a definition for defensible space. This would clarify for the owner, if he was concerned about having to remove trees. Bob asked where a definition would be. Janet said it was up to the agency too. Each agency was a little different and the guidelines were constantly changing. If he could keep it irrigated, that was a big thing. Robert said they were going a little off the regulations. As far as what they had here for regulatory, the buildings must be spaced at least 60 feet apart and at least 30 feet from all property lines. Janet asked about the WUI guidelines. Robert read the WUI definition: An area surrounding a building or roadway where measures are taken to reduce the chances of a fire spreading to or from the building, and to reduce the threat to life and/or property from fire. Typical measures include tree thinning and removal of other flammable debris and fuel. Janet thought that was a good definition. Robert asked if she wanted that included somewhere. *Janet said they'd approved the variance with the exception that a minimum of 30 feet of defensible space around all structures. Joel asked if she wanted to incorporate the definition of defensible space and Janet agreed.*

Motion made by Janet Camel, and seconded by Rick Cothorn, to recommend approval of the subdivision with the changes noted and the findings of fact. Motion carried, all in favor.

UPPER WEST SHORE ZONING DISTRICT & REGULATIONS AMENDMENT REQUEST (7:58)

Robert Costa presented the staff report. (See attachments to minutes in the August 2013 meeting file for staff report.) He mentioned the review of the amendment was for the entirety of sub district B, not just for the United Methodist Camp. This was not the conditional use hearing for the United Methodist Camp. If this language was approved, they would have to go to the Board of Adjustment (BOA) and have [their conditional use] publicly approved. This looked broadly at the entire sub district.

Bob K asked if this was approved if it would go to the BOA. Robert replied the Planning Board recommendation would go to the Board of County Commissioners. If the amendment was incorporated, then there would be conditional use review. Any property owner proposing use of specific property within sub district B as a church camp and retreat center would be required to go through conditional use review by the BOA.

Joel clarified that [the United Methodist] property would not go to the BOA unless they chose to propose something that expanded the use or the capacity or operation of the camp. He gave the example of a pump house for the water system. If it wasn't intended to expand the use and capacity of the camp, [it wouldn't need a conditional use]. In contrast, examples were the addition of a dormitory or a dining hall. Robert noted that adding new bedrooms would require BOA review; changing the pump house or roof height would not.

Steve checked that right now, if the camp wanted to do those improvements, they had to get a variance. If the Planning Board made this change, the camp would just have to get a conditional use. Robert agreed that this was the case for significant expansion. If it was something like raising a roof line or adding a pump house, it wouldn't have significant impacts and wouldn't increase capacity. Steve said they'd have to come for a conditional use rather than a variance. Bob thought they had to come for a variance if they wanted to add a dormitory. Steve said not if they approved this. Then the use would be a conditional use. Currently they would have to get a variance. Robert added that currently they had to get a variance for anything, including both significant expansion and something like changing roof lines. Roland checked that this would allow the camp to continue as is, with reasonable maintenance and upgrades without going through major regulatory steps. Robert agreed, saying most cases would still require a zoning conformance permit.

Chris Hagar spoke, representing the applicants. He was the chair of the board overseeing the operation of the Flathead Lake Methodist Camp. The Planning Dept. worked effectively with them. There had been difficult times getting understanding. [The camp] worked to get variances. It got to the point where they felt [this amendment was] the solution. They talked to others who were involved in the planning process for the zoning regulations in 1993 and 1994. It appeared it was a simple oversight where the camp got left out. There was a permitted or conditional use for a church camp retreat center in sub district C, but there was not a camp there. The planners had to enforce and apply the regulations as existing. The camp understood and respected that, and wanted to work with them. The camp was in the process of upgrading a number of cabins and upgrading the water system. The water system had positive quality indications through the years. In this last year, they had some difficult findings of bacteria in the water. They were working with the Department of Environmental Quality (DEQ) out of the Kalispell office to make sure the quality of water was safe and appropriate.

Chris continued that some concerns were raised by neighbors in the area about dust in the road. They oiled the road in an effort to reduce that. They wanted to try to work whatever way they could with all parties concerned. He reiterated from his letter that they had no intention of making a commercial entity out of this. They weren't going to develop RV sites and rent them out. They were going to continue with their mission to provide spiritual and educational types of activities. To do commercial activities, first they would have to go to the Yellowstone Conference, their parent organization, and get their blessing. It was aside from the regulatory types of things. It wasn't going to happen. They were looking at the upgrades of cabins, as Robert indicated, to provide a better quality of service and so forth to camp attendees. They were in the process of looking into hiring an engineer to redesign their water system and begin that process. That would be a multi-year process because they didn't have the funding to do it all at once. He offered to answer questions.

Public comment opened:

Jim Hollensteiner: He was actively involved with the original drafting of the zoning regulations 20 years ago. He was embarrassed to come before them this evening to say that they were doing something that he and 10 to 20 other people should have caught somewhere down the line. This wasn't the intention of those who were involved in initiating the drafting and approval of the zoning regulations that came to the County Commissioners. It was an unfortunate error. The Methodist Camp was asking to do what his group had intended to do and thought they were doing 20 years ago. For whatever reasons, there was this [inaudible] error and it just didn't happen. He was glad that this was now on the table and would be corrected.

Karen Davison: She was the camp manager since last May, so it was her 2nd summer with the camp. She'd been waiting since last May for this meeting. Since 1931, they, the campers, the trustees could finally call themselves legitimately and lawfully a camp and retreat center. Since she'd been there, she hadn't seen an indication that this camp desired to be a commercial entity. She'd heard otherwise in different rumors floating around the community. This summer, they'd seen over 1200 campers including a 6th grader who had an extremely compromised immune system, who attended a drama camp for 10 days. They provided the opportunity for him to have an outdoor experience. That was what they were about. They weren't about building hotels, motels or other things. They raised over \$200,000 since the beginning of the summer in rental fees and deposits. That was \$50,000 short of their operating budget for the year. She couldn't imagine how they could build something like a hotel on a \$250,000 operating budget. They spent over \$2,000 in variances coming before the planning commission and hoping to change a roof line and put a handicap-accessible facility to meet the needs of the seniors in their churches. Now they were coming before the Planning Board to say they wanted to be a church and a camp and a retreat center, as they'd always wanted. Somehow the wording was just never there.

Karen continued that they'd walked in faith since 1931. Some of the community gave an indication that they were walking in fear of what the church camp was going to be. She learned a word when she lived on a reservation in North Dakota that meant all together. They all lived together. The camp paved the road. They forgot to go through all the channels and make sure everybody knew. She apologized for that. They invited a member of the community to their

board meeting and gave her their financial records, legal documents and were completely transparent. They invited her to be a board member; she declined. If there was ammunition, [the community member] had it. They walked in faith. They allowed 7 of the neighbors to park their boat trailers on [the camp] land for free because it was convenient for the neighbors. They allowed another neighbor to dock his boat somewhere on the waterfront. They took care of the waterfront. They made sure the 13 cabins were back far enough and that the natural shoreline was taken care of. The native plants still grew there. The water was taken care of. They'd mowed neighbors' lawns. She thought someone got a pie from the neighbor for that. They supported community social events, such as the fire dept. barbeque. They wanted to be good neighbors. Her request of the board was to please allow them to be a camp, church and retreat center.

Alice Alkosser: She was a property owner along the road that the Methodist camp used to cross over. They had an easement on her property of approximately 411 feet. She owned that property since 1994. She had a good relationship with the Methodist camp. She had a few concerns. Since [the camp] crossed over her property on the easement, there was not just the traffic that was intended as a children's camp, where they come at the beginning of the week and leave at the end of the week. The traffic, which continued to increase, was almost continual over that road now. There was more in the way of trucks. Now that [the camp] had a water problem, Culligan was going back and forth. The speed of the vendors and people also made it hazardous. When she bought the property, her kids and the neighbors' kids ran back and forth across the road. It'd become quite crowded. Was it really just a children's camp or were they trying to change the usage to become more? Not a hotel, but 9 RV spots that weren't permitted—were they trying to increase year-round usage or become an RV park? She knew there were cease and desist notices sent to the camp when they were building without seeking proper permits. This was a concern as a neighbor. Kids were going back and forth on a daily basis where it was once a weekly basis. There were other activities at the camp that were non-church related and more commercial related. She had concerns as a neighbor, and specifically because it crossed her property. When the [current representatives] were gone, who knew who the next one to come in would be? She wanted to make sure that permits or changed zoning stated first and foremost that it would not be a commercial operation, that it was still for a Methodist camp and for children's camp purposes.

Alice said her other concern was environmental. The camp had a serious water and septic problem. They all shared the bay and were very, very concerned about the health and cleanliness of the bay and the lake. There were water pressure issues. The camp didn't have backflow devices. She was concerned that if the water pressure wasn't taken care of in a more timely manner, there would be pollution back into the lake. Also the camp leach lines and septic: if there was crossover between the camp water and septic, and leach lines weren't proper, and they failed as well as the tanks, because they did have issues there, it could also leak into the lake. She very much appreciated the camp. Lately there had been changes and requests to make permanent changes that she was concerned about. They wanted to keep it the way that it had been, with friendly neighbors. As someone whose property was crossed to get to the camp, she wasn't properly notified about the changes. She wasn't sure if this was the forum for that or not. She asked if they were only required to notify within a certain perimeter of the borders of the property. Since she didn't directly border on them, she wasn't notified. The same thing

happened when the road was dusted or oiled. From her point of view, these things had been happening without trying to include her in the process. Whatever happened here, she just wanted to make sure to request that there be a method or addition to the permitting process or to the zoning change that they had to notify anyone whose easement they were using to access the property.

Bob K asked Alice A if the road was plowed in the winter. She replied that it was not. He asked if the road maintenance was shared. Who paid for the road maintenance? She said it was her road, and she did it all. Bob asked if she paid for the oil on the road. She said if she wanted the road oiled in the past, she paid for it. He asked if there was a sign for speed or if one could be put up. She affirmed she had done so. It was observed sometimes. Bob asked if the road wasn't plowed in the winter, if road bumps/ speed bumps could be placed. Alice said she would like to do so. They were very concerned about people crossing that road and having cars come out, especially when they pulled out of their driveway. Bob checked she would be okay talking to the church camp about that possibility. She replied absolutely.

Roland G: He responded to a comment about easements. He'd been on both sides of that coin. Unfortunately, when you had an easement on your property, in that sense it wasn't your road anymore. It became something of a public road. The request to be notified was a fair request. He thought that could be honored out of good faith. To legislate it somehow would get [inaudible] because everyone crossed easements at some point, no matter where they went. That was why the notification regulations would not be able to accommodate the request. How far out did you stretch that? It could be someone crossed an easement 10 miles down the road to get to the camp. They weren't adjoining and there was no definition for how adjoining you had to be to be part of the notification process. That was why the regulations stated adjoining property. You couldn't measure after that.

Alice A: She traveled and came back and forth. If she missed a posted notice, or if the notice went down, was there a website that she could check? She'd like to have a registered letter, but if they couldn't do that, was there a website she could check? Could that be part of the process when things happened?

Robert replied yes.

Alice A: She hadn't seen that or been notified through that process.

Roland G: Speed limit signs or kid crossing signs were generally respected; however it was completely unenforceable unless it was issued by the County on a county road. He thought signs would help with the speed.

Alice A: She posted some and the camp posted some, which had come and gone over the years. She thought that would very much improve the neighbor relations. When there was less traffic, it was less of an issue. As there's more traffic, it was more of an issue.

Janet C: She asked if Alice's easement was a restrictive easement to the camp only.

Alice A: It was the camp and one neighbor.

Janet C: Were they listed as the only parties to the easement?

Alice deferred to Jim Hollensteiner.

Jim H: He had a title guy, Rod Johnson, in town dig out the easement, which went back to 1908. It went from Rollins Lakeshore Drive, where it cut off, all the way down where it crossed 3 parcels of property, including Alice's, before it got to the Methodist camp. It was a 25-foot easement that said ingress-egress.

Bob K: It sounded like if everybody could work together and have some communication here, this was a solvable problem.

Chris Hagar: When they looked at putting the dust control on the road, they worked with some neighbors, and one neighbor was going to talk to the other neighbors. He didn't know why Alice wasn't contacted. They made a good-faith effort to get in touch with people. They'd be happy to work with Alice in whatever way. If it was an easement or speed problem, they wanted to do that as well. If looking at a speed bump would help, they'd be happy to do that. He wasn't sure exactly where they'd place that. He wanted to make sure it didn't become a nuisance to other neighbors. They would work with their clientele to try to address speed issues.

Alice A: Her only other question was she didn't completely understand the zoning change. Was there a definition of significant improvement? There was also winterizing of cabins so they could be used year-round where they hadn't been in the past. That would mean more traffic year-round. Things like that were of concern to her and the other neighbors.

Linda Clark: She described where she lived, right across from the road. She was a Methodist and had been in Rollins 20 years. [The Camp] asked her to become a board member and she spent an entire weekend with them. They divulged all of their ins and outs. She felt like there was a conflict of interest when this started, where they did things without approval. She said she would be a liaison between the church camp and the neighbors. She was trying to keep the neighbors informed. She brought a petition to the [?] meeting.

Linda continued on the issue of dusting the road, she talked to the granddaughter of the Anderson property, whose 2 aunts owned the property, and who said yes to the dusting. She talked to Alice, who was part-time and wanted to be notified directly. She left Karen a voicemail that Alice wanted to be talked to directly. She also emailed and spoke with Rick Trembath, the camp facilitator, to say that Alice wanted to be contacted personally before something happened, since through this whole thing, the 3 property owners on that road had not been contacted about what was going on. When this started, she tried to notify the property owners that she could [reach] regarding what was going on when the text amendment changed. She wasn't the only one doing this. She also talked with Anne Baker, who was Lebkicher. They played phone tag about the road dusting. She finally left her a lengthy message about what the camp wanted to do and that they needed permission from the 3 property owners. Rick Trembath told her that he told Karen that she needed permission of the 3 property owners. Karen told Anne Baker that she only

needed 2 out of 3, and told Alice something totally different. Now [Linda] was the bad guy, where she talked to the 3 property owners and said they would like to see the road dusted. It wasn't her property. She couldn't say yes or no to anyone there. [Karen] didn't have the permission of 3 property owners and went ahead and oiled the property. The following week, Alice met Karen's husband, who was pruning her bushes along the road. She was hearing 'we're a church camp', but their definition of being a good neighbor was different from hers. She didn't go onto other people's property and do things. When she was at the board meeting, they had graded the road without permission. She told them they couldn't do that. It wasn't their road and they had to get permission from these people. That was her understanding of when you had an easement.

Roland G: It depended on how the easement was written. That was why it would be interesting to see the original one. In trying to understand what an easement really was, he had property where he was the person who had the access and was granted the ingress/egress. He did have the right to grade or oil. It depended on the [inaudible] easement. If it wasn't specifically excluded, it in essence became a public road and the users of that road, unless expressly stated, had the right to maintain according to what they felt was the standard of maintenance of their road. If you had a 30-foot wide easement, then it had to be kept clear if there were branches hanging over. Unless a statement excluded it, the people who were using the road had the right to trim and to maintain the road. It was helpful in these situations to look at an easement as a public road and how regular public roads were treated. Then you went from there and look for exceptions and the road easements.

Janet C: She added you had to be careful because some easements were private road easements and not public road easements. In this particular case, it was a private road easement to only the subsequent landowners that were going beyond her property. It was treated a little bit differently. The people who had the right to use the easement did have the right to maintain it.

Roland G: He agreed the property owners on the ends of these easements have the right to maintain the road according to what they consider maintenance by default unless stated otherwise. They didn't need to notify the landowners when they were going to oil or dust.

Janet C: She checked if the easement issues were something the Commissioners would need to address rather than the Planning Board.

Joel agreed.

Janet C: This might be an issue to resolve again as good neighbors. She didn't think it was the Planning Board issue.

Chris Hagar: If they hadn't done things in an appropriate way in the past in relation to the neighbors, they wanted to try to do that. He would work from his position to try to assure that happened.

Linda C: She hoped so. The camp was at the end of the road, and she was at the beginning. She saw a lot of the staff speeding. She'd invited people to come and sit and see how people drove.

They were driving 45 mph on that road. Rick Trembath did put up 15 mph signs. People ignored them. Some people were really good. Huge construction trucks flew out of there. She wished this wasn't happening.

Bob K: It seemed like there was a solution to the problem. It just needed to be communicated. Communication was the key. He suggested getting the neighbors together. There were some options and solutions here.

Linda C: Speed bumps were a definite option.

Bob K: He'd asked if the road was plowed in the winter. Since it wasn't, speed bumps or whatever could be put on.

Alice A: Her concern as they were making this change as related to this particular issue for today was what 'significant change' was. That would affect her property and the other neighbors. That was her main concern because that was the issue they were addressing tonight.

Karen D: She offered a correction in that it was her understanding from having seen the bill from winter that the road was plowed. She understood that Alice A was present 3 to 4 weeks in the summer, so she wasn't sure how [Alice] would know about the plowing of the road. She'd heard a concern from several people. Because it was only several people, she had a difficulty believing this. The concern was that not only would there be traffic and road dust, but that there would be hotels, restaurants and whorehouses at the United Methodist Church Camp. They could deny it if they wanted; this was exactly what she heard. She didn't think the Book of Discipline through the United Methodist Church would permit them to have that. She heard that rumor twice, which was why she said this community was living in fear not faith.

Rick C: He thought it looked like there was enough intelligence in this community that with more communication, he was optimistic this group could get some resolution.

Roland G: He thought it was important for everyone to know where they stood legally: to understand the easements, how it was specifically phrased, and both parties understand. There were some misconceptions of what you could and couldn't do in an easement and what it did and didn't mean to you as a property owner or as a user of that easement. They might be surprised as to how against the property owner easements went.

Steve R: There were ways available, such as road bumps that could be removed in the winter for plowing and put back in the spring. They weren't considering making church camps and retreat centers a permitted use. If this was approved, they planned to make them a conditional use. This meant if [the camp] wanted to change the use or expand the use, then they had to have a public hearing. The Lake County website had a page for the Planning Dept and had the current legal notices.

Alice A: If there were out of compliance issues, were those also on the website as they were taken care of?

Robert: Not necessarily. [The Planning Dept] didn't keep an online list of notices and violations. It was public record. It there was rumor going on that the Planning Dept issued a notice of violation, that was of public record and someone could ask the Planning Dept. It wouldn't necessarily be online. It was public record.

Alice A: As compliance was reached, would that also be the same?

Robert: Absolutely, assuming it would be through some sort of permitting process or conditional use or variance process. Again, it would be public record.

Jim H: The Board had a copy of his letter including some history. He went back 20 years and reiterated that the clear intention of those who were in the lead of drafting the regulations was to accommodate existing uses. They made provision for that for the post office, M & S Meats, Lewis Cabins and the Presbyterian Camp. He wasn't sure how the Methodist Camp got lost in the shuffle. That was a mistake from him and a whole bunch of others who reviewed these. He thought what they were going to try to do here this evening was to rectify a mistake that had been going on for 20 years. That was the clear intention of those who were drafting the regulations. They discussed it at some considerable length over a period of several years. This was what they wanted to do. The Methodist Camp got lost in the process unfortunately.

Steve R: He recalled that the Presbyterian Camp had an odd situation with their road. They provided an easement to landowners on the other side of the camp to pass through to get to their homes, rather than having to pass by people's homes to get to the camp. From time to time, the Presbyterian Camp had problems with those landowners speeding through the camp. He thought those issues needed to be handled by the neighborhood. It seemed to be a universal kind of problem.

Alice A: She pointed out she paid property taxes year-round regardless of the amount of time she spent there. It was still her property.

Public comment closed.

Steve checked that the definition of church camp and retreat center would be included in the regulations. Joel said it was already in the regulations.

Motion made by John Fleming, and seconded by Sigurd Jensen, to accept the staff recommendation of approval of the text amendment in the Upper West Shore Zoning District to add church camp and retreat center as a conditional use. Motion carried, all in favor.

Janet asked if there was a way to notify the Sanitation department to take a look at the septic system. Were they aware of it? Robert and Karen indicated that it was being addressed. Robert noted with Alice's question, he would want a little bit more time to answer. He encouraged her to feel free to call him.

OTHER BUSINESS (8:54 pm)

Joel introduced new planner Diana Cornelius. The group touched on what might be upcoming. Bob K complimented Robert's job on the Philips presentation.

Motion made by Rick Cothorn, and seconded by John Fleming, to adjourn. Motion carried, all in favor. Meeting adjourned at 8:57 pm.